

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

DOCKET NO. 2009-____-WS

IN RE: Petition of the Office of Regulatory)	PETITION OF THE OFFICE OF
Staff for a Declaratory Order)	REGULATORY STAFF FOR AN
Against Nature's Development Inc.)	ORDER REQUIRING
Requiring Certification as a Water/)	CERTIFICATION AS A WATER/
Sewer Utility and the Posting of a)	SEWER UTILITY AND POSTING
<u>Performance Bond</u>)	OF A PERFORMANCE BOND

The Office of Regulatory Staff, by filing this petition, would respectfully show and request of the Commission:

1. That the Public Service Commission of South Carolina ("the Commission") is a state agency with its business offices located in Columbia, South Carolina and that the Commission is responsible for the regulation of water and wastewater utilities operating for compensation as set forth in S.C. Code Ann. § 58-5-10 et seq. (Supp. 2008), and that the Office of Regulatory Staff ("ORS") is a state agency charged with the duty to represent the public interest pursuant to S.C. Code Ann. § 58-4-10 (Supp. 2008), *et seq.* and to make inspections, audits, and examinations of public utilities regarding matters within the jurisdiction of the Commission.

2. That upon information and belief, Nature's Development Inc. ("NDI" or "Respondent") is the owner/operator of a public well system providing water service and a wastewater treatment system providing sewer service to approximately 8 residential customers with a maximum capacity of 50 in the Mack Estates Subdivision located at 5364 Chester Highway, McConnells, South Carolina. (*See Exhibit One*).

3. That Respondent is providing service to the residents of the Mack Estates Subdivision (herein “customers”) for compensation and the rates charged for water and sewer service by Respondent have not been established, approved, or reviewed by the Commission.

4. That the water and sewer systems operated by Respondent meet the definition of a “public utility” as that term is defined in S.C. Code Ann. § 58-5-10(4) in that it is a “corporation or person furnishing or supplying in any manner gas, heat (other than by means of electricity), water, sewerage collection, sewerage disposal....to the public, or any portion thereof, for compensation.”

5. That Respondent and the water and sewer system which it operates are not certificated by the Commission as a public utility lawfully authorized to provide, supply, or furnish water and sewer service for compensation in the State of South Carolina. As an uncertificated water and sewer company, Respondent has never filed any of the documents, bonds, reports, or other instruments required of such companies under South Carolina law with either the ORS or the Commission.

6. That upon information and belief, the water and sewer systems serving the Mack Estates Subdivision is owned and operated by Fannie Mack. The water and sewer systems are approved by DHEC to serve 50 taps. Currently, the water and sewer systems are providing 8 taps to Mack Estates Subdivision. NDI is planning to provide service to approximately 50 houses upon the completion of the subdivision. The Respondent did not seek the Commission’s approval for the schedule of rates and fees charged to the customers.

7. That the Commission has jurisdiction over Respondent’s water and sewer systems pursuant to S.C. Code Ann. § 58-5-10 et seq. (Supp. 2008). Further, although Respondent has not consented to jurisdiction of the Commission, the Commission has the right, before the granting of authority or consent to any water or sewer utility regulated by the Commission for the operation, maintenance, or acquisition of any facility or system, to prescribe that the utility file with the

Commission a bond with sufficient surety payable to the Commission and conditioned upon the provision by the utility of adequate and sufficient service. S.C. Code Ann. § 58-5-720 (Supp. 2008). If the Commission finds that Respondent is operating the water and sewer system serving the Mack Estates Subdivision for compensation it is then, by statutory definition, a “public utility” and subject to the jurisdiction of this Commission. S.C. Code Ann. § 58-5-10(4) (Supp. 2008).

8. That, therefore, Respondent must apply to the Commission for a Certificate of Public Convenience and Necessity to operate this system. Further, Respondent must have the rates and fees charged to the customers of these systems approved by the Commission under the authority granted to the Commission under § 58-5-210 (1976). Additionally, Respondent must provide to the Commission a performance bond under the provisions of S.C. Code Ann. § 58-5-720 (Supp. 2008) and such other information and reports as the Commission deems necessary.

WHEREFORE, the ORS prays that the Honorable Commission:

1. Inquire into the ownership of the systems supplying water and sewer service to Mack Estates Subdivision.

2. If the water and sewer system supplying and providing water and sewer service to Mack Estates Subdivision are found to be public utilities under S.C. Code Ann. § 58-5-10 *et seq.*, order Respondent or such other proper person or entity to:

(a) apply pursuant to 26 S.C. Code Ann. Regs. 103-504 and 103-704 for a Certificate of Public Convenience and Necessity to operate the facilities,

(b) provide a bond pursuant to S.C. Code Ann. § 58-5-720 (Supp. 2008) and that such bond be in an amount as required under 26 S.C. Code Ann. Regs. 103-512.3.1 and 103-712.3.1, and

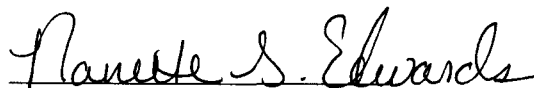
(c) seek approval of rates to be charged for the provision of the utility services.

3. Order Respondent or such other identified and properly certificated owner/operator of NDI's water and sewer system, to comply with Commission rules and regulations and file information identifying the Authorized Utility Representative of that company and to file annual reports with the Commission as mandated by 26 S.C. Code Ann. Regs. 103-512.1 and 103-712.1.

4. Order Respondent or such other identified and properly certificated owner/operator of the NDI's water and sewer systems to cease charging Respondent's current rates and fees.

5. Order Respondent or such other identified and properly certificated owner/operator of NDI's water and sewer systems to file an application for a rate case seeking approval of rates pursuant to 26 S.C. Code Ann. Regs. 103-503 and 103-703 or upon Respondent filing an establishment case to establish a new utility.

6. Order any additional action or relief which the Commission may deem necessary.



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September 8, 2009
Columbia, South Carolina

EXHIBIT ONE

*Nature's Development
PO Box 7
McConnells, SC 29726*

August 28, 2009

[REDACTED]
[REDACTED] Mack Drive
McConnells, SC 29726

Re: Water Bill

Dear Occupant:

Please be advised, as of September 1, 2009 you will be required to pay your water and sewage bill to Nature's Development.

Payment of Sixty dollars (\$60.00) will be due each month on the 15th of each month. Payment is required to be paid in order to prevent interruption of service. A reconnection fee of \$25.00 will be charged in addition to any outstanding charges.

Please make checks payable to: Nature's Development.

Mail to: Nature's Development
PO Box 7
McConnells, SC 29726

With kind regards, I am

Very truly yours,

Fannie Mack
Fannie Mack